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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/709,842	06/01/2004	Steven P. Hanson	10807.0153.NPUS00	3841
27572	7590	09/18/2007	EXAMINER	
HARNESS, DICKEY & PIERCE, P.L.C.			ROSENBAUM, MARK	
P.O. BOX 828			ART UNIT	PAPER NUMBER
BLOOMFIELD HILLS, MI 48303			3725	
MAIL DATE	DELIVERY MODE			
09/18/2007	PAPER			

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/709,842	<b>Applicant(s)</b> HANSON ET AL.
	<b>Examiner</b> Mark Rosenbaum	<b>Art Unit</b> 3725

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- . Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 06 August 2007.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

4)  Claim(s) 1,6-9 and 19-27 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1,6-9,19-27 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO/SB/08)  
    Paper No(s)/Mail Date .  
4)  Interview Summary (PTO-413)  
    Paper No(s)/Mail Date. \_\_\_\_ .  
5)  Notice of Informal Patent Application  
6)  Other:

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

Claims 1,19,25,27 are rejected under 35 U.S.C. 103 as being unpatentable over Riley in view of Engel et al. Riley shows a food disposer with a tangential outlet. Note the discharge chamber surrounds at least a portion of the grinding plate but is not above it. This may result in poor material flow. Engel et al, cited by applicants earlier in this application, shows in a similar apparatus a discharge chamber at least a portion of which is above a plane of the shredder plate for improved material flow. In order to provide for improved material flow, it would have been obvious for one of ordinary skill in the art to modify Riley by having at least a portion of the discharge chamber above a plane of the shredder plate, taught to be desirable by Engel et al.

Claims 9,20-24,26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Riley in view of Engel et al as noted above, and further in view of either Galbiati et al or Strutz et al. Riley does not use a BPM motor which results in a lack of benefits from using such a motor e.g. noise reduction. Both Galbiati et al and Strutz et al solve this problem by disclosing the use of BPM motors in similar apparatus. In order to obtain the inherent advantages of using such a motor, it would have been obvious for one of ordinary skill in the art to modify Riley by using a BPM motor, taught to be desirable by both secondary references.

Claims 1,6-8,19,25,27 are rejected under 35 U.S.C. 103(a) as being unpatentable over British in view of Riley and Engel et al. British discloses the basic

food disposer except for the use of a tangential outlet which improves material flow movement. Riley solves this problem by disclosing similar apparatus including the use of a tangential outlet. In order to provide for better flow movement, it would have been obvious for one of ordinary skill in the art to modify British by using a tangential outlet, taught to be desirable by Riley. See above for the use of Engel et al

Claims 9,20-24,26 are rejected under 35 U.S.C. 103(a) as being unpatentable over British in view of Riley and Engel et al as applied to claim 1 above, and further in view of either Galbiati et al or Strutz et al. See above for the use of Galbiati et al and Strutz et al.

### ***Response to Arguments***

Applicant's arguments filed 8/6/07 have been fully considered but they are not persuasive. Engel et al show the discharge location claimed by applicants. Furthermore, applicants do not state where the plane is e.g. along the top surface of the plate, the bottom surface of the plate, or where? Concerning the British reference, there is no reason why the teachings of the secondary references could not be used to modify British since the location of the plane is not specifically set as appears to be argued by applicants.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Rosenbaum whose telephone number is 571-272-4523. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on 571-272-4419. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Mark Rosenbaum  
Primary Examiner  
Art Unit 3725

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